



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

DIVISION OF ENERGY

IN THE MATTER OF THE PETITION OF)	
NUI UTILITIES, INC. D/B/A ELIZABETHTOWN)	DECISION AND ORDER
COMPANY TO (1) REVISE ITS PERIODIC)	APPROVING
BASIC GAS SUPPLY SERVICE RATE, (2) REVISE)	PROVISIONAL RATES
ITS COMMODITY RATES FOR COMMERCIAL)	
AND INDUSTRIAL AIR CONDITIONING AND)	
DISTRIBUTED GENERATION USES AND)	
SEASONAL DELIVERY SERVICE, AND (3) MAKE)	
OTHER TARIFF CHANGES)	DOCKET NO. GR03050423

(SERVICE LIST ATTACHED)

BY THE BOARD:

On May 30, 2003, NUI Utilities, Inc. d/b/a Elizabethtown Gas Company ("Elizabethtown" or "Company") filed a petition with the New Jersey Board of Public Utilities ("Board") seeking to increase its Periodic Basic Gas Supply Service ("BGSS-P") rate from \$0.6486 per therm including taxes to \$0.7693 per therm including taxes effective October 1, 2003. ("2003 BGSS petition"). The 2003 BGSS petition proposed to increase the Basic Gas Supply Service ("BGSS") rate charged to Elizabethtown's customers. As proposed in the 2003 BGSS petition, the monthly bill of a typical residential customer using 100 therms would increase by \$12.07 or 11.1%. Additionally, the Company proposed that its BGSS-P rate may be subject to a further provisional decreases at any time, or increases of up to 5% on a typical 100 therm per month residential customer to be effective December 1, 2003 and February 1, 2004, respectively.

The Company also proposed that the Gas Cost Under-Recovery Adjustment ("GCUA"), approved by the Board in its March 30, 2001 Order in Docket Nos. GR00070470 and GR00070471, be authorized to remain in effect beyond November 30, 2004 to ensure full recovery of the Company's GCUA balance. Elizabethtown projects that it will begin the 2003-2004 BGSS year with a gas cost under-recovery balance of approximately \$9.5 million. Moreover, the Company projects that during the upcoming BGSS year it will incur \$28.8 million of gas costs above the level reflected in its current rates. On June 18, 2003, the Company's filing was transmitted to the Office of Administrative Law ("OAL"). Public hearings were held on August 12 and 13, 2003 in Rahway and Flemington, New Jersey.

On July 16, 2003, Elizabethtown filed an emergent motion for provisional rate relief with the Board. The Company requested: 1) that the Board direct the OAL to return that portion of the BGSS petition necessary to permit expeditious Board action on the provisional rate increase request; and 2) to increase the BGSS-P rate from \$0.6486 per therm to \$0.7693 per therm, inclusive of taxes, effective September 1, 2003 on a provisional basis, subject to refund with interest. The 2003 BGSS petition reflects a thirteen-month BGSS period starting September 1, 2003 and ending September 30, 2004. Additionally, on July 10, 2003, the Company requested authorization to implement a Universal Service Fund ("USF") factor of \$0.0081 per therm after tax that was approved by the Board in Docket No. EX00020091 in connection with the USF permanent and interim programs, effective August 1, 2003. On a combined basis, the requested USF and BGSS-P rate increases would increase the monthly bill of a typical residential customer using 100 therms by 11.2%.

Following the review by, and subsequent negotiations among the Company, the Board Staff, and the Division of the Ratepayer Advocate ("the Parties"), on August 15, 2003 the Parties entered into the attached Stipulation. Among the provisions in the Stipulation is the agreement of the parties that additional time is needed by the Parties to allow for a full and comprehensive review of the 2003 BGSS petition. In addition, the Parties recommend that, pending their review and a final determination by the Board, the Board should allow the Company a provisional increase to the Company's Periodic BGSS rate effective September 1, 2003, or on such date as the Board may determine. The Parties believe that in light of the increase to the commodity cost of gas incurred by the Company and the time needed to complete the review of this matter by the Parties and the Board, a provisional increase to \$0.7693 per therm, including all applicable taxes, to Elizabethtown's Periodic BGSS rate is both reasonable and in the public interest. The proposed provisional increase would allow the Company to timely recover its gas costs while mitigating the effect on the Company's customers of any additional under-recovery. The provisional increase would also be subject to refund with interest, and final Board review and approval. The Stipulation further provides that the OAL will retain jurisdiction of the 2003 BGSS petition and that upon issuance of an Initial Decision by the Administrative Law Judge hearing this matter, returned to the Board for its final determination.

NUI Corporation and its subsidiaries including NUI Utilities, Inc., and Elizabethtown Gas Company, a division of NUI Utilities, is currently the subject of a focused audit being conducted on behalf of the Board. At the August 18, 2003 agenda meeting of the Board, the Board determined to defer its decision on the provisional BGSS increases discussed herein, until the September 10, 2003 meeting of the Board.

DISCUSSION AND FINDINGS

The Board has carefully reviewed the record to date in this proceeding and the attached Stipulation of the parties. The Board FINDS that, subject to the terms and conditions set forth below, the Stipulation is reasonable, in the public interest, and in accordance with the law, especially in light of the existing under-recovered gas cost balance at the start of the 2003-2004 winter season. The Board is cognizant of the circumstances that have contributed to gas cost under recovery in this case, in particular, the recent increase in gas costs. The Board is concerned that any further delay in adjusting the Company's BGSS rates would only exacerbate the gas cost under-recovery situation.

Accordingly, subject to the terms and conditions herein, the Board HEREBY ADOPTS the Stipulation as its own, as if fully set forth herein and HEREBY APPROVES, on a provisional basis, and subject to refund with interest, an increase in the Company's BGSS-P rate from \$0.6486 per therm (including taxes) to a BGSS-P rate of \$0.7693 per therm (including taxes) effective for service rendered on and after the date of this Order on a provisional basis, subject to the following conditions:

- 1) NUI Corporation (hereinafter NUI Corp.) must provide written assurances, both from the Chief Executive Officer and the Board of Directors, that the approved BGSS revenues received from customers will be used solely for Elizabethtown utility purposes in a separate Elizabethtown account;
- 2) NUI Corp. must provide the Board with an acceptable plan to repay Elizabethtown Gas for any money owed to Elizabethtown by NUI Corp. and/or any other entities in the holding company structure;
- 3) NUI Corp. and NUI Utilities d/b/a Elizabethtown Gas Company must continue to cooperate with the ongoing audit and participate in weekly meetings to review its financial integrity;
- 4) NUI Corp. and NUI Utilities d/b/a Elizabethtown Gas Company must comply with all existing Board Orders;
- 5) NUI Utilities d/b/a Elizabethtown Gas Company must refrain from issuing any special dividends without prior Board approval; and
- 6) The Board reserves the right to take further actions and impose additional measures that may be deemed necessary to insure that the funds authorized herein are applied solely for the benefit of Elizabethtown's customers.

The provisional rate increase authorized herein shall be effective for service rendered on and after the date of this Order and shall be subject to refund with interest to customers on any net over-recovery, after a full review of Elizabethtown's 2003 BGSS proceeding at the OAL, subject to final Board approval. The Board HEREBY ORDERS that the Company's 2003 BGSS proceeding remain at the OAL for full review and an Initial Decision and then returned to the Board for a Final Decision. This provisional rate shall not be changed without specific prior approval of the Board.

The Board HEREBY ORDERS the Company to file tariff pages that conform to the terms and conditions of this Order within ten (10) days from the date of this Order.

The Company's gas costs will remain subject to audit by the Board. This Decision and Order shall not preclude the Board from taking any such actions deemed to be appropriate as a result of any such audit.

DATED: September 16, 2003

BOARD OF PUBLIC UTILITIES
BY:

SIGNED

JEANNE M. FOX
PRESIDENT

SIGNED

FREDERICK F. BUTLER
COMMISSIONER

SIGNED

CAROL J. MURPHY
COMMISSIONER

SIGNED

CONNIE O. HUGHES
COMMISSIONER

SIGNED

JACK ALTER
COMMISSIONER

ATTEST:

SIGNED

KRISTI IZZO
SECRETARY